

Management and Budget for publication in the Catalog of Federal Domestic Assistance pursuant to Office of Management and Budget Circular No. A-89. When legislated assistance programs or program objectives which are to be implemented through assistance instruments reach the point where applications or proposals need to be obtained, timely notice of such solicitations will be published in the FEDERAL REGISTER, Commerce Business Daily, trade and professional journals which are widely circulated to state and local governments, and news media, as appropriate to communicate with potentially interested applicants.

(c) When a MarAd assistance project involves making assistance available through prime recipients to subrecipients, such as through states to local governments, prime recipients should provide timely advance notice to subrecipients as to the availability of such assistance, and provide a reasonable time period for subrecipients to prepare applications and secure prerequisite local approvals.

**§ 385.37 Requirement for unrestricted solicitations for discretionary assistance awards.**

(a) *Policy.* It is MarAd policy to maximize the opportunity for prospective recipients to be considered for assistance awards where eligibility is not prescribed by law. Therefore, when eligibility is not prescribed by law or a final program regulation, and when discretionary assistance awards are selected to accomplish a program objective, applications or proposals will be obtained, wherever practicable, by issuance of a written solicitation. When MarAd initiates the solicitation of applications or proposals, eligibility to be considered for discretionary awards will not be restricted by MarAd to one category of recipients or to a single recipient without adequate basis.

(b) *Justification of restricted eligibility.* Where program legislation explicitly restricts eligibility, *e.g.*, to state governments, no justification is required. When program regulations restrict eligibility beyond the restrictions required by the program legislation, the basis for the restriction shall be set forth in the program rulemaking.

41 CFR 9-3.805-51 shall be used as a guide in preparing the "justification for restricting eligibility." The reasons offered will be evaluated for consistency with the policy in paragraph (a) of this section, MarAd's overall mission, and the objective of maintaining an open and fair system of making assistance awards.

(c) *Approvals.* Justifications of restricted eligibility will be signed by the Grants Officer and will be reviewed by Office of General Counsel for legal sufficiency prior to issuance of the restricted solicitation. The signed justification will be filed in official award file.

**§ 385.38 Joint funding.**

(a) Pursuant to section 10(c) of the Act, MarAd is authorized to participate in joint funded projects with other Federal agencies in any funding relationship which will serve the best interest of all of the participating agencies' program. Such joint funding project may include more than one type of assistance relationship, *e.g.*, some components of project may be funded by grants and other components of the project may be funded by cooperative agreements.

(b) It is MarAd's positive policy, further, to encourage cost-sharing on the part of applicants for financial assistance. The willingness of applicants to cost-share is a primary factor in making, or not making, an assistance award.

**§ 385.39 Socio-economic and environmental policies.**

A number of socio-economic and environmental policies of the Federal Government are incorporated into the standard general provisions of the grant agreement and cooperative agreements, and are identified as explicit criteria in §§ 385.51 and 385.52.

**§ 385.40 Disputes.**

Procedures for resolution of disputes between a recipient and MarAd appear in the standard general provisions of the grant and cooperative agreements referenced in § 385.62, of this part.

CRITERIA FOR AWARD

**§ 385.50 Scope.**

Sections 385.51 and 385.52 set forth the criteria to be used by MarAd in evaluating all projects and all potential recipients prior to award of a grant or cooperative agreement.

**§ 385.51 Criteria: Projects.**

The criteria to be used by MarAd in evaluating all projects prior to award of a grant or cooperative agreement are as follows:

(a) In terms of the accomplishment of a public purpose—

(1) The potential contribution which the proposed work is expected to make to the MarAd assistance mission;

(2) The economic, environmental, and societal significance which a successful demonstration or project may have for the nation, and in particular the national merchant marine program;

(3) The relationship of the proposal to:

(i) The public need for the potential results of the research, development, or demonstration effort, and whether it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance;

(ii) Whether the potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results;

(iii) The extent of the problems treated and whether the objectives sought by the undertaking are national, widespread, or regional in their significance;

(iv) The extent of opportunities to induce non-Federal support of the undertaking;

(v) The degree of risk of loss of the investment inherent in the research, and the availability of risk capital to the non-Federal entities which might otherwise engage in the field of the research so as to further timely development of the technology; and,

(vi) The availability of appropriations to MarAd.

(b) In terms of the particular objectives of the project, whether the project has:

(1) High technical merit which promises or represents an innovative idea, method, or approach;

(2) Program value not previously recognized or pursued by MarAd; and,

(3) A reasonable degree of probability of achieving the stated objectives.

**§ 385.52 Criteria: Applicant.**

The criteria to be used by MarAd in evaluating all applicants prior to award of a grant or cooperative agreement are as follows:

(a) The qualifications, capabilities, resources (both financial and technical) and experience of the applicant;

(b) The facilities or techniques which the proposer possesses and offers which are considered to be integral factors for achieving the objectives of the proposal;

(c) The qualifications, capabilities, and experiences of the proposed investigator, team leader, or key personnel, who are considered to be critical in achieving the objectives of the proposal;

(d) The precision and detail with which the applicant states its plan to further the formally adopted socioeconomic and environmental policies of the United States (*e.g.*, the encouragement of minority business enterprises); and,

(e) The extent to which the applicant will share the total estimated cost of the project.

FORMS OF AGREEMENTS

**§ 385.60 Scope.**

Sections 385.61 through 385.62 describe the form and content of the two parts which comprise a grant agreement or a cooperative agreement which will be executed by MarAd and a recipient of financial assistance.

**§ 385.61 Grant and cooperative agreements: Special provisions.**

(a) MarAd has adopted two format matrices, one for grant agreements and one for cooperative agreements, to accommodate the variables inherent in undertaking a project with a particular recipient. These variables include, for example, identity of the recipient, scope of work, schedule of performance